

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

---

PETER WASKO,

Plaintiff,

v.

No. CIV 03-1026 BB/RLP

RANDALL D. MOORE,

Defendant.

COURT'S FINDINGS OF FACT  
AND CONCLUSIONS OF LAW

THIS MATTER came on for a hearing on January 30, 2004, and all evidence having been presented, having considered the parties' proposed findings and conclusions, and having reviewed the applicable law, the Court now makes its findings of fact and conclusions of law:

Findings of Fact

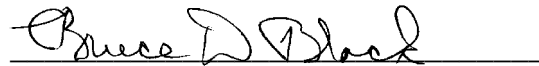
1. On June 11, 2001, the Plaintiff filed a lawsuit in the First Judicial District of Santa Fe County, State of New Mexico, alleging damages as a result of an automobile collision. That matter is captioned *Peter Wasko v. Randall D. Moore*, D-0101-CV-2001-01411 (1<sup>st</sup> Jud. Dist., N.M.).

2. The State District Court for the First Judicial District entered various orders including an order involuntarily dismissing the State action for failure to prosecute.
3. Plaintiff unsuccessfully sought reconsideration of the dismissal in the First Judicial District Court, then appealed to the New Mexico Court of Appeals.
4. Having failed to obtain reconsideration from the First Judicial District Court, Plaintiff filed this case on September 5, 2003.
5. While this matter has been pending, the New Mexico Court of Appeals has affirmed the dismissal of the First Judicial District Court, and the New Mexico Supreme Court has denied Plaintiff's petition for a writ of certiorari.
6. Plaintiff is aware his claims in this matter are barred by the State proceedings because he has previously been involved in filing federal claims after losing on the same issues in State court.
7. Plaintiff brought this matter without any legitimate expectation of success and for the improper purpose of harassment.

#### Conclusions of Law

1. This Court lacks jurisdiction to engage in direct review and collateral attack of the final judgment of the First Judicial District Court for the State of New Mexico. *Foshee v. Lloyds, New York*, 619 F.2d 1104, 1112 (5th Cir. 1980).

2. Plaintiff's present complaint, although in the guise of 42 U.S.C. § 1983, fails to state a different claim and is a frivolous attempt to appeal his State claim to this Court. *See Allen v. McCurry*, 449 U.S. 90, 98 (1980)..
3. Plaintiff's filing of this matter violates the pleading requirements of Federal Rule of Civil Procedure 11 and will be dismissed. Plaintiff shall be liable for Defendant's reasonable attorney's fees and costs associated with this matter in the amount of \$3,295.50.

A handwritten signature in cursive script, reading "Bruce D. Black", is written over a horizontal line.

**BRUCE D. BLACK**  
**United States District Judge**